

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE**

FIFTH THIRD BANK, by and through its
Trust Officer, as Special Administrator of the Estate
of KACIE BECHARD, Deceased, SHERYL M.
BECHARD, and STEPHEN BECHARD,

Plaintiffs,

vs.

CSX CORPORATION; CSX TRANSPORTATION
CORPORATION, NEWTON COUNTY HIGHWAY
DEPARTMENT NEWTON COUNTY, by and
through its Board of Commissioners, STATE OF
INDIANA, DEPARTMENT OF TRANSPORTATION,
and NATIONAL RAILROAD PASSENGER
CORPORATION, also known as Amtrak,

Defendants.

Civil No. 4:02-CV-0009 AS

MEMORANDUM AND ORDER

On February 23, 2004, this Court entered a memorandum and order granting defendants' motions for summary judgment, leaving as the sole remaining issue the obstructed view claim against the Railroad. On or about June 3, 2004, the parties filed a stipulation to enter final appealable judgment in this matter, further stipulating that, should this matter be affirmed on appeal as against the railroad, the remaining claim against the railroad will be dismissed pursuant to Fed.R.Civ.P. 41(a)(1). On July 22, 2005, the Court of Appeals for the Seventh Circuit affirmed this Court's summary judgment order. No. 04-2780, slip op. at 13. Therefore, the remaining claim against the railroad is **DISMISSED**. This case should now be considered closed. **SO ORDERED**.

DATE: August 4, 2005

S/ ALLEN SHARP
ALLEN SHARP, JUDGE
UNITED STATES DISTRICT COURT